

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
RISEANDSHINE CORPORATION,	:	
Plaintiff,	:	21 Civ. 6324 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
PEPSICO INC.,	:	
Defendant.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on October 8, 2021, the Court held an evidentiary hearing on Plaintiff's motion for a preliminary injunction.


WHEREAS, on October 11, 2021, Defendant filed objections to "one-sided record supplementation" at the hearing and requested three weeks of "targeted, expedited discovery" on issues related to store layouts, investor concerns and Ms. Schmidt's testimony on instances of actual confusion. (Dkt. No. 136.)

WHEREAS, on October 14, 2021, Plaintiff responded. (Dkt No. 140.) It is hereby

ORDERED that Defendant's objections are **OVERRULED** and Defendant's application for additional discovery on the preliminary injunction motion is **DENIED**. Defendant did not raise its request for additional discovery at the October 8, 2021, hearing, which was held at the Defendant's request (Dkt. No. 120), following an initial hearing on Plaintiff's motion for a preliminary injunction on September 9, 2021. To the extent that Defendant objects to certain portions of Mr. Gyesky's and Ms. Schmidt's testimony, Defendant also did not raise these objections at the October 8, 2021, hearing. In addition, the Court finds that any supplementation of the record at the hearing was not "one-sided." The Court granted Defendant's motion to supplement its witness list (Dkt. No. 130) following letter briefing on Defendant's objections to

Plaintiff's proposed witnesses (Dkt. Nos. 128, 129), and did not require Defendant's new witnesses (Mr. Lee, Mr. Lyons, and Mr. Santee) to submit declarations in advance of the hearing.

Dated: November 2, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE